

Message Text

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ORIGIN MC-02

INFO OCT-01 EUR-12 ISO-00 CIAE-00 DODE-00 PM-04 H-02

INR-07 L-03 NSAE-00 NSC-05 PA-02 PRS-01 SP-02 SS-15

USIA-15 ACDA-10 NASA-02 ERDA-07 OES-06 OTPE-00 /096 R

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OES/SA - COL. WHEELER

EB/TD - MR. HUFFCUTT

OTP - MAL BARMAT

DOD/STD - COL. ST. CIN

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TO AMEMBASSY PARIS

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E.O. 11652:N/A

TAGS:MILI

SUBJECT: SPACE AGENCY ESA PROTESTS USG EXPORT LICENSING
LIMITATION

REF: PARIS 22969, STATE 201925

1. THE DEPARTMENT DOES NOT AGREE WITH THE CONTENTION OF THE EUROPEAN SPACE AGENCY (ESA) THAT THE EXPORT CONTROL AUTHORITY OF THE OFFICE OF MUNITIONS CONTROL (PM/MC) HAS BEEN SUPERSEDED BY THE MEMORANDUM OF UNDERSTANDING WITH RESPECT TO AEROSAT RELATED CASES INVOLVING TECHNICAL DATA EXPORTS BY U.S. INDUSTRY. FURTHER, WE DO NOT SEE ANY CONFLICT BETWEEN THE MOU AND THE POSITIONS GIVEN TO THE THREE AMERICAN CONTRACTORS CONCERNING THE AEROSAT PROPOSALS.

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2. PM/MC DERIVES ITS EXPORT CONTROL AUTHORITY FROM SECTION

38 OF THE ARMS EXPORT CONTROL ACT, AS ADDED BY SECTION 212 OF THE INTERNATIONAL SECURITY ASSISTANCE AND ARMS EXPORT CONTROL ACT OF 1976 (PL 94-329). THIS STATUTE REPLACES SECTION 414 OF THE MUTUAL SECURITY ACT OF 1954, AS AMENDED.

3. THE DEPARTMENT WOULD BE WILLING TO EXAMINE MORE THOROUGHLY THE BASIS OF THE ESA COMPLAINT IF IT COULD BE

POINTED OUT WHERE SPECIFICALLY ARE THE INCONSISTENCIES BETWEEN THE CONDITIONS AND LIMITATIONS CONVEYED TO THE AMERICAN FIRMS AND THE MOU. THE SAME ALSO APPLIES TO THE SPECIAL PROCEDURES OF JANUARY 1967 AND JANUARY 1974 IMMUNITIES REFERRED TO IN THE AIDE-MEMOIRE.

4. THE CONDITIONS AND LIMITATIONS APPLIED TO THE AEROSAT PROPOSALS ARE IN SUBSTANCE STANDARD PROVISOS APPLIED TO ALL SUCH CASES, INCLUDING CASES COVERED BY EXISTING INTER-GOVERNMENTAL AGREEMENTS. THE ONLY UNIQUE THING ABOUT THE CASES IN QUESTION WAS THAT WE APPROVED THE RELEASE OF THREE FINAL PROPOSALS WITHOUT REVIEWING THEM IN VIEW OF TIME CONTRAINTS. THIS WAS AN EXCEPTION TO STANDARD PROCEDURES TO ASSIST ESA'S REVIEW PROCESS.

5. IN ORDER FOR US TO HAVE A GREATER UNDERSTANDING OF ESA'S FUTURE PROJECT REQUIREMENTS AND OBJECTIVES AND FOR ESA TO HAVE GREATER UNDERSTANDING OF OUR LEGAL REQUIREMENTS AND PROCEDURES, WE WOULD BE WILLING TO MEET WITH ESA REPRESENTATIVES AT A MUTUALLY ACCEPTABLE TIME AND PLACE AND DISCUSS IN DETAIL THE VARIOUS POINTS ADDRESSED IN THE AIDE-MEMOIRE. KISSINGER

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